

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 15.02.2021

CORAM

THE HON'BLE MR.JUSTICE R. SURESH KUMAR

Writ Petition No.16471 of 2011

K.Gunasekaran

... Petitioner

-Vs-

1.The Commissioner, Municipal Administration
Chepauk, Chennai 600 005.

2.The Commissioner, Namakkal Municipality
Namakkal.

3.The Director, Local Fund Audit
Kuralagam, Chennai 600 018.

.... Respondents

Prayer : Writ Petition under Article 226 of the Constitution of India praying for a Writ of Mandamus directing the Respondents to pay interest on Rs.3 38 446 from 31.01.2009 till the date of payment as per G.O.Ms.No.122 Finance (Pension) Department dated 20.02.1995 compoundable annually and to pay interest on Rs.1 52 757/- from 31.01.2009 towards Earned Leave Arrears as per G.O.Ms.No.345 P & R (FR Spl) dated 31.07.1990 and G.O.Ms.No.339 P & A R Department dated 10.06.1988 based on the representation of the Petitioner dated 16.05.2011 and 24.05.2011 given to 2nd and 3rd Respondents.

For Petitioner : Mr.A.Jayachandran
for Mr.A.R.Nixon
For Respondents : Ms.K.Bhuvaneswari,
Addl.Govt.Pleader
For RR 1 and 3

Mr.D.Raghu, Standing Counsel for R2

सत्यमेव जयते
O R D E R

The prayer sought for herein is to direct the Respondents to pay interest on Rs.3,38,446 from 31.01.2009 till the date of payment as per G.O.Ms.No.122 Finance (Pension) Department dated 20.02.1995 compoundable annually and to pay interest on Rs.1,52,757/- from 31.01.2009 towards Earned Leave Arrears as per G.O.Ms.No.345 P & R (FR Spl) dated 31.07.1990 and G.O.Ms.No.339 P & A R Department dated 10.06.1988 based on the representation of the Petitioner dated 16.05.2011 and 24.05.2011 given to 2nd and 3rd Respondents.

2. That the petitioner, after having rendered long years of service at the second respondent Municipality, retired from

service on attaining superannuation on 31.01.2009. After his peaceful retirement, since he is entitled to get the retirement benefits payable to him under various heads, he was expecting to get the same. However, the same was not paid to him immediately and after a delay of more than 14 months, the retirement benefits for a sum of Rs.3,38,446/- was paid by way of Cheque by the respondents only on 25.05.2010 and the same was accordingly encashed by the petitioner or it has been credited to the petitioner's account only on 16.06.2010.

3. Therefore, for the belated payment of retirement benefits, the petitioner, in order to get the interest as permissible, has filed this writ petition for a writ of mandamus as stated above.

4. Heard Mr.A.Jayachandran, learned counsel for the petitioner, who would submit that, the petitioner retired from service 31.01.2009. Therefore, as per the procedure which is in vogue, the respondents should have disbursed the retirement benefits within three months of his retirement, i.e., on or before 30.04.2009. However, only on 25.05.2010, the retirement benefits was disbursed by way of Cheque which was encashed only on 16.06.2010. Therefore, there is clear delay of more than a year. Hence, the writ petitioner is entitled to get the interest at the rate of 12% per annum, for which the learned counsel for the petitioner has relied on G.O.Ms.No.122, Finance (Pension) Department dated 20.02.1995.

5. However, on the other hand, the learned Standing Counsel for the second respondent, by way of relying upon the counter affidavit filed by the second respondent has submitted that, insofar as the pension proposal of the petitioner is concerned, after his retirement within 1 ½ months i.e., on 18.03.2009, the petitioner submitted the retirement proposal before the second respondent Municipality and thereafter after taking the usual time the same was processed, considered and ultimately sanctioned to the petitioner. After sanction, the pension amount of Rs.3,38,466/- has been disbursed and it has been credited in the account of the petitioner on 16.6.2010. Hence, in this regard, it is only normal routine procedure which was to be adopted, was followed and hence there is no delay. Hence, the learned Standing Counsel would submit that, the petitioner is not entitled to get any interest for the alleged delay in payment of retirement benefits.

6. It is admitted fact that, the petitioner was permitted to retire peacefully on superannuation on 31.01.2009. Thereafter, within a reasonable period i.e., three months of the retirement date, the retirement benefits ought to have been disbursed i.e., on or before 30.04.2009. However, admittedly the retirement

benefits were paid to the petitioner by way of Cheque dated 25.05.2010, which was credited to the petitioner's account only on 16.06.2010. Therefore, definitely there is a delay of more than a year in disbursing the retirement benefits, for which certainly the petitioner is entitled for interest.

7. In this regard, the learned counsel for the petitioner has heavily relied on G.O.Ms.No.122 Finance (Pension) Department dated 20.02.1995, where a slab system of different percentage of interest has been provided to be paid for the belated payment of pensionary benefits and that, beyond one year period 12% interest shall be calculated and paid.

8. However, the stand taken by the learned Standing Counsel is that, immediately after 1 ½ months from the date of his retirement, the proposal was forwarded to the third respondent and the process took place based on the seniority ie., among the retired persons, the pension proposals received by the employer concerned would be processed based on seniority, which has taken some reasonable time for disbursement.

9. Even though such a definite stand is taken by the second respondent, the delay of more than an year can only be treated as delay in paying retirement benefits for which certainly the petitioner would be entitled to get interest. Similarly, even though the petitioner, relying on the aforesaid Government Order, has claimed that he is entitled to 12% interest, in normal circumstances, in this kind of payments which are withheld and are paid belatedly to the employees, 6% interest is allowed and in many number of cases this Court has passed orders allowing 6% interest payable to the belated payment of retirement benefits to the employees.

10. Considering the factual matrix of the case, this Court is inclined to dispose of this writ petition by passing the following order.

That the respondents especially the second respondent is hereby directed to pay 6% interest for the belated payment of the retirement benefits ie., Rs.3,38,446/- and also for the belated payment of encashment of Earned and unearned Leave amounting of Rs.1,52,757/-, which amounts were received by the petitioner on 16.10.2010 and 21.08.2009 respectively, from the date it was actually due ie., on completion of three months from the date of retirement till the date of actual payment. Accordingly, 6% per annum interest shall be calculated and paid to the petitioner within a period of four weeks from the date of receipt of a copy of this order.

11. With the above directions, this writ petition is disposed of. No costs.

Sd/-
Asst.Registrar (CS VIII)

/true copy/

Sub Asst. Registrar

KST

To

- 1.The Commissioner, Municipal Administration
Chepauk, Chennai 600 005.
- 2.The Commissioner, Namakkal Municipality
Namakkal.
- 3.The Director, Local Fund Audit
Kuralagam, Chennai 600 018.

+1 cc to M/s.A.R.Nixon Advocate sr8458
+1 cc to M/s.D.Raghu Advocate sr8653
+1 cc to the Government Pleader sr8826

W.P.No.16471 of 2011

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